



SentencingStats.com

the source for sentencing data and analysis

April 23, 2022

**Declaration of Mark H. Allenbaugh,
Chief Research Officer, Sentencing Stats, LLC.**

I, Mark H. Allenbaugh, being of majority age and having personal knowledge of the matters set forth below, do declare as follows pursuant to 28 U.S.C. § 1746:

1. I am the Chief Research Officer and Co-Founder of Sentencing Stats, LLC ("SSLIC"), a research firm that provides statistical analysis of U.S. Sentencing Commission sentencing data to legal professionals across the country, and am a former staffer in the Office of General Counsel to the U.S. Sentencing Commission. My biography is attached hereto.

2. On or about, February 21, 2022, SSLIC was retained with regard to the matter of *United States v. Grant Leonard Glover*, 2:21-cr-045-Z(02) (N.D. Tex.), to analyze the U.S. Sentencing Commission's publicly available datafiles¹ for similarly situated offenders matching the following criteria:

- a. sentenced under USSG §2D1.1,
- b. with a Total Offense Level ("TOL") of 27,

¹ The Commission's public datafiles are available at <https://www.ussc.gov/research/datafiles/commission-datafiles>.

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- c. in Criminal History Category IV,
- d. not subject to any mandatory minimum or consecutive sentence,
- e. subject to a statutory maximum penalty of at least 240 months (20 years),
- f. who did not receiving any government-sponsored motion for a downward departure pursuant to USSG §§5K1.1, 5K3.1 or otherwise,
- g. was not subject to any mandatory minimum or mandatory consecutive term of imprisonment, and
- h. was subject to a statutory maximum penalty of at least 240 months.

3. SSLLC utilized the SPSS version of the Commission's datafiles, which contain sentencing data on over one million individuals sentenced under the Guidelines from fiscal years 2006 through and including 2020, the latest datafile currently available.

4. Each individual sentence reported in the datafiles is assigned hundreds of variables reporting a variety of relevant information including the actual sentence imposed, the final applicable sentencing guideline as determined by the court, the final (i.e., total) offense level, the criminal history category, and whether the sentence was the result of a government motion for a departure or a court-initiated downward variance, among many other factors.

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5. All the variables reported in the datafiles are defined in the U.S. Sentencing Commission's Variable Codebook for Individual Offenders (1999-2020).² The relevant variables SSLC generally utilizes and analyzes are listed and defined below, although not all may have been utilized for the instant analysis. Some of the variables are proprietary to SSLC and are so indicated in italics, meaning they are variables generated by SSLC based on data otherwise contained within the Commission's datafiles.

Variable	Definition	Note
Year	Datafile in which sentence was found.	For example, if variable reports 2008, the sentence was found in the U.S. Sentencing Commission's datafile for fiscal year 2008.
Guideline (GDLNEHI)	Final sentencing guideline utilized after all grouping performed.	
District	The federal district where the sentence was imposed.	
STATMAX	The total statutory maximum term of imprisonment for all counts of conviction.	
STATMIN	The statutory minimum term of	If there was no applicable minimum, the

² The Codebook is available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/datafiles/USSC_Public_Release_Codebook_FY99_FY19.pdf.

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Variable	Definition	Note
	imprisonment for all counts of conviction.	value is 0.
GLMIN	The bottom of the applicable guidelines sentencing range in months.	
GLMAX	The top of the applicable guidelines sentencing range in months.	
CRIMHIST	Whether the defendant had any criminal history.	1 means some criminal history including criminal history that otherwise may not be scoreable. 0 means none.
USSCIDN	The unique serial number assigned to this defendant by the U.S. Sentencing Commission.	
CRIMPTS	The total number of criminal history points determined by the Court.	Not to be confused with the criminal history category.
DISPOSIT	The manner of conviction (disposition) whether by trial or plea.	1 means plea. 2 means nolo contendere. 3 means jury trial. 4 means bench trial.
BOOKERCD ³	Determines	0 = Within Range

³ The Commission renamed this variable to SENTRNGE in FY 2018 and changed

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Variable	Definition	Note
	whether and nature of any departure or variance.	1 = Upward Departure 2 = Upward Departure w/Booker 3 = Above Range w/Booker 4 = Remaining Above Range 5 = 5K1.1/Substantial Assistance 6 = Early Disposition/5K3.1 7 = Government Sponsored - Below Range 8 = Downward Departure 9 = Downward Departure w/Booker 10 = Below Range w/Booker 11 = Remaining Below Range
SENTYR	Fiscal year sentence was imposed.	
NWSTAT1-NWSTAT5	The offenses of conviction.	
XFOLSOR	The final (or total) offense level as found by the Court.	
XCRHISSR	The final criminal history category as found by the Court	
AMENDYR	The version of	

the values. For consistency purposes and to allow for comparison to earlier fiscal years' datafiles, SSLC has recreated this variable by translating the new values to old values.

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Variable	Definition	Note
	the Guidelines Manual applied by the Court as identified by its year of publication.	
DSPLEA	The type of disposition, i.e., specific manner of conviction.	0 = Not Received 1 = Received 2 = Received Alternate Document 3 = Oral Plea Agreement 5 = Straight up Plea, No Agreement 8 = Trial 9 = Guilty Plea, Type Indeterminable
MWEIGHT	The marijuana weight equivalency, in grams, of all the drug types coded.	

Findings

13. Utilizing the criteria set forth in Paragraph 2 above, 121 cases were identified. Accordingly, each case was subject to an advisory sentencing range of 100 to 125 months.

14. Of those 121 cases, 64 received a within Guidelines sentence, three received an upward departure or upward variance, and 53 received court-initiated downward departure or variance.

15. The boxplot below illustrates the sentencing distribution

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for all 121 cases (blue boxplot) and separately the 53 cases that received a court-initiated downward departure or variance (orange boxplot). The blue box on the left illustrates the spread from the first quartile (25th percentile), which was 81.0 months, to the third quartile (75th percentile), which was 100.0 months, coinciding with the bottom of the applicable Guidelines range. This indicates that half of all sentences in this group fell between 81.0 and 100.0 months. The average of all sentences is represented by the "x" in the middle of the box: 89.9 months. The line extending below the box indicates the lower bound, which was 57.0 months. Any sentences below 57.0 months are considered statistical anomalies. The line extending above the box indicates the upper bound, which was 125.0 months (the top of the Guidelines range). Any sentences above 125 months are also considered statistical anomalies. The sentences ranged from a low of zero months to 168 months.



16. The orange boxplot on the right above illustrates the 53 court-initiated downward departures/variances. As indicated, half the sentences ranged from 52.5 months to 86.0 months with an average of 66.8 months. The line bisecting the orange box indicates the median sentence: 72.0 months.

17. The chart below is from the U.S. Sentencing Commission's *2021 Sourcebook of Federal Sentencing Statistics*. A bottom-of-Guidelines sentence of 100 months is greater than either the average (92 months) or median (80 months) for drug trafficking offenders in CHC IV. In fact, it is greater than

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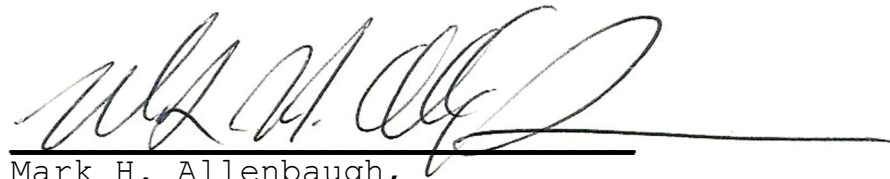
the median sentence for those convicted of assault offense in CHC VI (74) and nearly equivalent to the average (106 months). In fact, it is greater than the overall median sentence for child pornography offenders (90 months), and nearly equivalent to the overall average (108 months).

Table 27

SENTENCE LENGTH IN EACH CRIMINAL HISTORY CATEGORY BY TYPE OF CRIME¹
Fiscal Year 2021

TYPE OF CRIME	TOTAL			CRIMINAL HISTORY CATEGORY																	
				I			II			III			IV			V			VI		
	Mean	Median	N	Mean	Median	N	Mean	Median	N	Mean	Median	N	Mean	Median	N	Mean	Median	N	Mean	Median	N
TOTAL	48	24	56,931	36	12	23,103	35	13	7,978	44	22	9,954	56	36	6,164	70	48	3,845	93	72	5,887
Administration of Justice	13	8	509	10	5	298	10	11	58	15	12	44	17	14	47	20	18	27	33	24	35
Antitrust	3	3	6	3	3	6	--	--	0	--	--	0	--	--	0	--	--	0	--	--	0
Arson	63	48	79	67	30	33	34	36	9	67	54	16	60	51	10	45	30	3	82	78	8
Assault	58	36	657	30	18	243	42	27	70	66	44	106	74	51	89	76	70	51	106	74	98
Bribery/Corruption	20	12	247	19	12	222	20	11	8	20	12	12	--	--	2	--	--	0	40	16	3
Burglary/Trespass	23	14	62	10	7	22	12	12	7	36	24	9	21	18	5	54	28	8	26	27	11
Child Pornography	108	90	1,215	92	78	879	131	120	102	149	121	141	153	135	55	187	180	26	211	204	12
Commercialized Vice	14	11	114	10	6	81	24	14	15	17	21	11	13	15	4	--	--	0	73	51	3
Drug Possession	1	0	274	1	0	173	1	0	28	0	0	21	0	0	14	2	0	19	5	1	19
Drug Trafficking	74	60	17,599	50	36	7,674	65	57	2,064	77	60	2,664	92	80	1,641	107	96	1,071	123	120	2,485
Environmental	2	0	161	2	0	135	2	0	11	3	0	10	3	3	3	--	--	1	--	--	1
Extortion/Racketeering	25	15	116	21	8	78	12	12	7	33	30	16	17	12	5	--	--	2	46	48	8
Firearms	48	37	8,079	21	12	1,217	30	24	772	37	30	1,724	50	41	1,510	59	54	1,112	76	60	1,744
Food and Drug	9	1	45	8	1	41	28	12	3	--	--	1	--	--	0	--	--	0	--	--	0
Forgery/Counter/Copyright	16	12	137	9	4	56	7	4	11	13	9	21	22	25	10	22	18	18	31	33	21
Fraud/Theft/Embezzlement	20	12	4,512	17	6	3,211	21	12	378	24	16	396	32	24	178	39	30	116	37	33	233
Immigration	13	8	16,911	6	4	5,505	9	7	3,856	13	12	3,958	22	18	2,031	29	24	991	35	30	570
Individual Rights	34	6	65	36	4	61	--	--	1	--	--	2	--	--	0	--	--	1	--	--	0
Kidnapping	166	123	92	151	110	34	177	163	15	150	114	16	165	121	14	239	288	5	195	180	8
Manslaughter	69	59	56	61	37	31	87	53	6	70	70	11	70	80	5	108	84	3	--	--	0
Money Laundering	57	30	1,028	44	24	761	78	58	100	77	59	78	137	84	35	110	60	17	125	120	37
Murder	244	231	257	212	184	88	280	240	31	258	240	43	252	240	34	269	240	23	249	258	38
National Defense	37	27	215	26	23	174	48	44	16	46	43	6	48	44	4	--	--	0	149	130	15
Obscenity/Other Sex Offenses	22	18	297	23	12	34	16	12	29	18	15	76	20	18	63	28	26	48	32	30	47
Prison Offenses	11	8	529	4	0	22	5	1	10	5	4	133	9	7	117	12	12	90	17	15	157
Robbery	104	90	1,300	82	71	349	89	78	154	99	92	241	114	90	187	117	101	120	137	120	249
Sexual Abuse	211	180	1,062	202	180	676	201	180	108	233	228	109	233	210	55	263	240	70	215	184	44
Stalking/Harassing	26	18	219	15	12	113	20	18	27	33	30	21	31	27	22	36	33	17	74	46	19
Tax	14	12	421	12	8	347	17	14	37	22	18	28	45	27	5	--	--	2	--	--	2
Other	2	0	667	1	0	539	2	0	45	5	0	40	11	6	19	8	4	4	15	12	20

¹ Of the 57,287 cases, 356 cases were excluded due to one of the following reasons: missing Criminal History Category (355) or missing or indeterminable sentencing information (1). Sentences of 470 months or greater (including life) and probation were included in the sentence average computations as 470 months and zero months, respectively. The information in this table includes conditions of confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.



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ALLENBAUGH BIOGRAPHY

Mark H. Allenbaugh, a sentencing and mitigation consultant, is a nationally recognized expert on federal sentencing matters. He is a co-founder of Sentencing Stats, LLC, which provides attorneys and their clients with expert statistical analyses of data and trends reported by the U.S. Sentencing Commission, the Bureau of Prisons, the Bureau of Justice Statistics and other entities. Sentencing Stats, LLC has access to the U.S. Sentencing Commission's sentencing datafiles from 2002 to the present. These datafiles contain thousands of variables for every defendant sentenced under the U.S. Sentencing Guidelines nationwide, which report pertinent information regarding the offender and the sentence imposed. These data allow him to provide precise statistical and trend analyses for clients and counsel.

Mr. Allenbaugh holds three B.A.s from the University of Southern California in Philosophy, English, and Religion; an M.A. in Philosophy from Ohio University; and a J.D. from American University's Washington College of Law, where he served as an editor on the Law Review. Mr. Allenbaugh also has completed coursework toward a Ph.D. in the History and Philosophy of Science at the University of Maryland, College Park.

Prior to entering the private sector, Mr. Allenbaugh served as a Staff Attorney for the U.S. Sentencing Commission. He has published numerous articles on sentencing policy and criminal justice, which have been cited over 100 times in top U.S. law reviews and journals, and over a dozen times in published federal district and appellate opinions. His published articles include:

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